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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,420	07/25/2000	George G. Neuman	P/3458-2	6646

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EXAMINER	
FRENEL, VANEL	

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/625,420	NEUMAN, GEORGE G.	
	Examiner	Art Unit	
	Vanel Frenel	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.**

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed July 2000.

Claims 1-48 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al (5,772,585) in view of Kraftson et al (6,151,581).

(A) As per claim l, Lavin discloses a system to match a consumer of health care services to a health care service provider over a communications network (Col.1, lines 16-67 to Col.2, line 64), the system comprising:

at least one computer terminal associated with the consumer for allowing the consumer access to the communications network (Col.2, lines 1-22; Col.4, lines 33-42);

a network server coupled to the communications network, the server comprising a computer program (Col.4, lines 33-67)having:

a service provider data base identifying a plurality of health care service providers and associated health care service products offered by the service providers (Col.5, lines 36-67 to Col.6, line 67).

Lavin does not explicitly disclose a first methodology for determining an appropriate treatment based on a. diagnosis provided by the consumer or determined by an alternative diagnosis determiner; and

a second methodology for determining at least one appropriate service provider based on a treatment preference comprising at least one of geographical location of the provider, insurance plan participation, cost, provider experience with the treatment and provider outcome with respect to the treatment.

However, these features are known in the art, as evidenced by Kraftson. In particular, Kraftson suggests a first methodology for determining an appropriate treatment based on a. diagnosis provided by the consumer or determined by an alternative diagnosis determiner (Col.1, lines 13-67 to Col.2, line 50); and

a second methodology for determining at least one appropriate service provider based on a treatment preference comprising at least one of geographical location of the provider, insurance plan participation, cost, provider experience with the treatment and provider outcome with respect to the treatment (Col.1, lines 13-67 to Col.2, line 50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kraftson within the system of Lavin with the motivation of improving patient care, health care, health outcomes, and the management of physician practices (See Kraftson, Abstract lines 12-14).

(B) As per claim 2, Kraftson discloses the system wherein the service provider data base comprises information related to a plurality of service providers, medical products offered by each provider, the provider's experience with each medical product, outcome of each provider

with respect to each product, price for each product, description of each product and demographic location of each provider (Col.5, lines 7-67 to Col.6, line 67).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(C) As per claim 3, Kraftson discloses the system further wherein the first methodology determines the number of treatment options available for a particular treatment (Col.6, lines 32-67).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(D) As per claim 4, Lavin discloses the system wherein the first methodology determines a selected treatment option if more than one treatment option is available (Col.9, lines 29-67 Col.10, line 30).

(E) As per claim 5, Lavin discloses the system wherein the alternative diagnosis determiner comprises one of a link to a medical diagnosis database and a referral to a physician (Col.13, lines 8-67 to Col.14, line 65)

(F) As per claim 6, Lavin discloses the system wherein the first methodology accesses the service provider database to describe the treatment option when more than one treatment option is available (Col.13, lines 8-67 to Col.Col.14, line 65).

(G) As per claim 7, Lavin discloses the system wherein the first methodology allows the consumer to obtain a referral to a physician to assist in understanding of treatment options (Col.11, lines 61-67 to Col.12, line64).

(H) As per claim 8, Lavin discloses the system wherein, after the consumer is matched to a service provider, an identification number is issued (Col.7, lines 13-67).

(I) As per claim 9, Lavin discloses the system further comprising a link to the service provider (Col.7, lines 47-67 to Col.8, line 8).

(J) As per claim 10, Kraftson discloses the system further comprising a consumer data base obtained from the second methodology comprising information related to the consumer's choice of service provider (Col.6, lines 1-67).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(K) As per claim 11, Kraftson discloses the system wherein the consumer database is coupled to the service provider data base for updating the service provider data base (Col.6, lines 1-67).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(L) As per claim 12, Kraftson discloses the system wherein the second methodology has an input from the service provider data base to determine the at least one appropriate service provider (Col.6, lines 1-67).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(M) As per claim 13, Kraftson discloses the system wherein provider outcome includes an indication of consumer satisfaction (Col.6, lines 1-67 to Col.7, line 42)

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(N) As per claim 14 Kraftson discloses the system further wherein the cost treatment preference includes the capability to offer a reduced cost for greater usage (Col.10, lines 1-67 to Col.11, line 35).

(O) As per claim 15, Kraftson discloses the system further comprising the capability to prioritize the treatment preferences in a selected order (Col.14, lines 6-67 to Col.15, line 43).

The motivation for combining the respective teachings of Lavin and Kraftson are as discussed above in the rejection claim 1, and incorporated herein.

(P) As per claim 16, Lavin discloses the system further comprising a program flow for charging the consumer a fee to participate in the system (Col.13, lines 45-59).

(Q) Claim 17 differs from claim 1 by reciting allowing the consumer to access the communications network to connect to a network server coupled to the communications network, the server comprising a computer program having a service provider data base identifying a plurality of health care service providers and associated health care service products offered by the service providers.

As per this limitation, it is noted that Lavin discloses determining an appropriate treatment based on a diagnosis provided by the consumer or determined by an alternative diagnosis determiner (Col.1, lines 16-67 to Col.2, line 64; Col.9, lines 19-67 to Col.10, lines 53) and Kraftson discloses determining at least one appropriate service provider based on a treatment preference comprising at least one of geographical location of the provider, insurance plan participation, cost, provider experience with the treatment and provider outcome with respect to the treatment.

Thus, it is readily apparent that these prior art systems utilize computer program having a service provider database to perform their specified function.

The remainder of claim 17 is rejected for the same reason given above for claim 1, and incorporated herein.

(R) Claims 18-32 recite the underlying process steps of the elements of claims 2-16, and respectively. As the various elements of claims 2-16 have been shown to be either disclosed by or obvious in view of the collective teachings of Lavin and Kraftson, it is readily apparent that the apparatus disclosed by the applied prior art performs the recited underlying functions. As

such, the limitations recited in claims 18-32 are rejected for the same reasons given above for system claims 1-16, and incorporated herein.

(S) Claim 33 differs from claims 1 and 17 by reciting a computer readable storage medium for a program for operating :

As per this limitation, Lavin discloses a system to match a consumer of health care services to a health care service provider over a communication network coupling at least one computer terminal associated with the consumer for allowing the consumer access to the computer network and a network server (Col.2, lines 1-64; Col.4, lines 32-42), the computer readable storage medium comprising a computer program comprising:

a service provider data base identifying a plurality of health care service providers and associated health care service products offered by the service providers (Col.5, lines 36-67 to Col.6, line 67) and Kraftson discloses a first methodology for determining an appropriate treatment based on a diagnosis provided by the consumer or determined by an alternative diagnosis determiner; and a second methodology for determining at least one appropriate service provider based on a treatment preference comprising at least one of geographical location of the provider, insurance plan participation, cost, provider experience with the treatment and provider outcome with respect to the treatment.

Thus, it is readily apparent that these prior art systems utilize computer readable storage program to perform their specified function.

The remainder of claim 33 is rejected for the same reason given above for claims 1 and 17, and incorporated herein.

(T) Claims 34-48 recite the underlying process steps of the elements of claims 2-16, and respectively. As the various elements of claims 2-16 have been shown to be either disclosed by or obvious in view of the collective teachings of Lavin and Kraftson, it is readily apparent that the apparatus disclosed by the applied prior art performs the recited underlying functions. As such, the limitations recited in claims 34-48 are rejected for the same reasons given above for system claims 1-16, and incorporated herein.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches method and apparatus for objectively monitoring and assessing the performance of health-care providers based on the severity of sickness episodes treated by the providers (5,845,254) and delivery of medical services using electronic data communications (5, 619,9910.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on 6:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

V.F
V.F
January 26, 2003

ALEXANDER KALINOWSKI
PATENT EXAMINER
ART UNIT 3626